



# USER'S GUIDE TO THE CERTIFICATE OF COMPLIANCE PROCESS

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

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*Promoting the Wise Use of Land • Helping to Build Great Communities*

## INTRODUCTION

This is your guide to how the county determines parcel legality and how to process a Certificate of Compliance. It is designed to help answer your questions about the process, including:

- Ö **Where do I begin, if I need to obtain a determination on whether my lot was created legally?**
- Ö **What information must I provide to be sure my application is complete?**
- Ö **How much will the process cost?**
- Ö **After I submit my application, what will happen before a certificate can be recorded?**
- Ö **What considerations are reviewed before a decision is made on whether a lot was created legally or not?**
- Ö **How long will the process take?**

## WHAT IS A CERTIFICATE OF COMPLIANCE?

When questions concerning the legality of a parcel arise, the county has two ways to determine a lot's legal status: a "Certificate of Compliance" or a "Notice of Violation." While a certificate of compliance application is filed by an applicant, the county initiates the processing of a notice of violation.

The purpose of a **Certificate of Compliance** is to provide landowners and subsequent purchasers with a record of the county's determination that a parcel was legally created. This process is governed by the State Subdivision Map Act (Government Code Section 66499.35).

Although a certificate of compliance certifies the legality of the parcel, it neither ensures that it is a buildable parcel, nor entitles the parcel owner to a construction permit or other development permits or approvals. To obtain a construction permit or other land use approval for the parcel, the owner must complete the appropriate application process and meet all existing regulations.

If the county determines that the parcel was created in compliance with the provisions of the Subdivision Map Act and local ordinances at the time of its creation, a certificate of compliance is issued. If the parcel was not created in compliance with those provisions, a conditional certificate of compliance is issued. The conditions which must be satisfied before issuance of any permit or other approval will typically be the same as those that would have been applied if the parcel had been legally created using the land division process.

When the county knows a parcel was created illegally, a **Notice of Violation** is used. It is a recorded document notifying the owner and subsequent owners that the parcel was created in violation of the Subdivision Map Act and local ordinances. A landowner, upon receipt of the county's intent to file a notice of violation, may apply for a conditional certificate of compliance. The county will not record the notice of violation if a certificate is issued.

## DETERMINING PARCEL LEGALITY

Over the years, there have been a number of ways to create a legal parcel. The most common means of establishing the creation of a parcel are deeds from one owner to another describing a precisely delineated (metes and bounds) portion of a larger property, and reference to a land division map formally approved by the county under the Subdivision Map Act or its predecessor statutes (known at various times as a plat map, parcel map or tract map). When several certificates are requested, it must be shown that each parcel was individually created.

Requirements for creating parcels changed from deeds to a land division map because of procedures established at either the state or local level, regulating the creation of parcels. Knowing the dates that the parcels were created is important so they can be compared to the requirements that were in place at that time. Each application is evaluated on an individual

basis with consideration given to the specific facts and circumstances involved. The guidelines used are contained in the Subdivision Regulation Matrix. Other documents you may come across in your review of parcel legality include:

### GOVERNMENT LOTS AND PATENTS

Government lots are typically quarter-quarter sections along the north and west boundary of a township and are generally around 40 acres. Government lot numbers may also have been assigned to oddly-shaped parcels of various acreage along grant lines or to oddly-shaped sections of the General Land Offices' original land surveys. A quarter-quarter section or government lot is considered a separate legal parcel only if it was granted separately by the government or conveyed individually by a subsequent owner. The original government grants of land, called patents, are generally recognized as legally created parcels.

### RECORD OF SURVEY

A record of survey is a record of an actual survey of a property showing placement of monuments and measured distances and bearings in the field. Records of survey are generally conducted to determine the physical location and/or acreage of existing parcels. They do not create legal lots of record, except for those completed in 1937 to 1962 to record an approved subdivision of 5 or more lots of one acre or less in size. Very few were actually recorded during that period. Evidence that the subdivision was approved by the Board of Supervisors must be provided. A record of survey may no longer be recorded for a parcel without a determination that the parcel was created in compliance with the Subdivision Map Act and county ordinance.

### PARTITIONS BY COURT DECREE

A court decree partitioning real property does not singularly create separate legal parcels. Code of Civil Procedure section 872.040 requires partition actions to comply with the Subdivision Map Act and local ordinances in order to create separate legal parcels. In most instances, applications involving court decrees will need to be reviewed by staff and County Counsel.

### ROADS & RIGHTS-OF-WAY

Roads, streets, utility easements or railroad rights-of-way do not create separate parcels. Under the Subdivision Map Act, legal parcels are considered as a whole even when roads, streets, utility easements or railroad rights-of-way bisect the parcel.

1

#### WHERE DO I BEGIN?

In an initial meeting with a staff planner, you will be given an overview of the process and a checklist of the information and materials you will need to provide for a complete application. Call the Planning Department at (805) 781-5600 to make an appointment.

2

#### WHAT INFORMATION MUST I PROVIDE AND HOW MUCH WILL IT COST?

An application for a certificate of compliance must include the following information:

- A. **General Application Form.** A standardized application which provides general information about the applicant, the property owner, and the property. The "Consent of Landowner" form is enclosed which authorizes an agent to act for the landowner.
- B. **Land Division Application.** This form provides specific information about the request. Also include the **Subdivision Regulation Matrix** that allows you to identify the basis upon which you wish the county to determine how the parcel(s) was created.
- C. **Information Specified on Checklist.** A checklist is provided with your application package that specifies what you are required to submit with your application. If you have any questions about the information you need to include with your application, staff can assist you either in person or by telephone.

- D. **Filing Fees.** The filing fees according to the 2008-2009 fee schedule are \$628.00 for the first certificate requested and \$211.00 for each additional certificate. The filing fees are \$4793.00 for the first conditional certificate and \$211.00 for each additional conditional certificate. Other fees may be added, depending on the complexity of the application or if review of the application by other county departments is necessary. For more information about the application fee, see the enclosed fee worksheet.

### 3

#### WHAT HAPPENS NEXT?

Once your completed application is filed, planning staff will review the information provided and send project referrals to

various agencies that have an interest in the application. In addition, an interagency review meeting to discuss the application is held with all agencies involved with the review of your application.

- A. **Completeness Determination.** Within 30 days of submission of your application, staff will complete the initial review and if additional information is needed, a letter will be sent to you. Submitting complete information with your initial application will speed this review process. Staff will:

❖ Review and compare the legal description contained in the creation document and the current deed or legal description of the subject parcel. If the subject parcel is a part of a larger contiguous land holding, the current deed may not show the subject parcel as "separate". However this does not mean that the parcel was merged or has lost its separate identity.

❖ Compare the recordation date of the legal document creating the subject parcel against the dates on the Subdivision Regulation Matrix to determine if the creation complied with the rules then in effect. If found to be created before, as an exception from, or in compliance with, applicable ordinances and

state laws regulating divisions of land, the subject property is considered legal.

❖ Review county records to determine if the subject property has been the subject of a recorded certificate of compliance or a recorded map since its creation. If it has, and the purpose of the map was to create parcels, with boundaries that do not match the subject parcel, then it has lost its separate identity through resubdivision.

❖ Review department records for any information involving the subject property, including whether the county has issued a permit or grant of approval for development of the property.

Once the application has been determined to be complete, a letter formally accepting your application for processing is sent to you.

- B. **Hearing.** Certificates of Compliance do not require a public hearing before approval. The Planning Director or a designee makes the decision on whether to approve or deny certificates. Conditional Certificates require a public hearing before the Subdivision Review Board. Any interested person may express their views about the proposal at the public hearing.

- C. **Appeal.** Both Certificates and Conditional Certificates of Compliance have the ability to be appealed. The appeal is heard by the Board of Supervisors. An appeal is completed by holding a public hearing on the issue(s) raised by the appeal. Any interested person or the applicant can appeal all or part of the project. As in the case of any public hearing, it is essential that you attend. Except for projects located within the Coastal Zone, the Board decision is final.

D. **Projects Within the Coastal Zone.** California state law allows for approved projects located within the Coastal Zone to be appealed to or by the California Coastal Commission. A hearing before the Coastal Commission is scheduled by its staff. This hearing will likely be held in a location outside of the county. The Coastal Commission's determination on whether to hear the appeal, and any decision they render, is final.

E. **Recordation.** After a certificate or conditional certificate is approved, it must be recorded. Staff will determine the cost of recording the certificate and send a request for payment to you. Upon payment, the certificate or conditional certificate will be recorded by the county recorder. Once a certificate is issued, it will contain a new description of the property. This new legal description must be used for all future transactions associated with the property. No new certificates can be issued without new information regarding additional legal parcels.

## 4

### WHAT IS CONSIDERED IN DETERMINING WHETHER A PARCEL WAS LEGALLY CREATED?

The major consideration with certificate of compliance applications is determining whether a separate parcel was actually created and whether it was separately and individually conveyed by a deed or patent. The following are general guidelines used to review certificate applications.

- ◆ Certificates must be issued for the entire property, with no portion of the parcel excluded. An accounting of the entire property or ownership for which certificates are requested must be made.
- ◆ Each certificate requested must have a clear conveyance that complies with all applicable ordinances in effect at that time. The conveyance should not be merely to accomplish a property line adjustment between neighboring parcels. It may be necessary to

provide a chain of title and/or additional information concerning adjoining property.

- ◆ The applicant must establish that either the parcel requested is individually described by a separate recorded document, or it is otherwise created as a separate legal parcel.
- ◆ If a deed or patent is submitted to justify the certificate, the document must describe the separate parcel for which a certificate is to be issued. If a deed or patent conveys a group of contiguous lots, those lots constitute one parcel.
- ◆ No area outside the current ownership can be included, nor can any area within the property be excluded from the pertinent documents.
- ◆ A remainder from property divided or sold may be recognized if the underlying parcel was legally created (even though the remainder may not have been separately described by a single document). In such instances, the review shall include sufficient information to verify that the action creating this property was not merely for a property line adjustment between neighboring properties.

## 5

### HOW LONG WILL THE PROCESS TAKE?

The department's policy is that certificates of compliance be acted on within six months of acceptance, however simple certificates can be acted on as quickly as one month from submittal. Conditional Certificates can take from three to six months to process from application submittal to recordation. You can help expedite the review process by making sure your application is complete, your proposal is clearly stated, and all required information is provided. The Department of Planning and Building is available to answer your questions regarding any application requirement. For more information, call (805) 781-5600 and ask for certificate of compliance review.

## **FEE WORKSHEET – FISCAL YEAR 2008-2009**

### **Certificates of Compliance:**

\$628.00 for each certificate requested.

TOTAL = \$628.00

\$211.00 for each additional certificate requested (up to 20 certificates in one application)

\$211.00 X \_\_\_\_\_ = \_\_\_\_\_

GRAND TOTAL = \_\_\_\_\_

If you are within the Coastal Zone, please add \$455.00 to your total.

If Public Works review is required, please add \$405.00 to your total.

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### **Conditional Certificates of Compliance:**

\$4793.00 for the first certificate requested (includes environmental review fees)

TOTAL = \$4793.00

\$211.00 for each additional certificate requested (up to 20 certificates in one application)

\$211.00 X \_\_\_\_\_ = \_\_\_\_\_

GRAND TOTAL = \_\_\_\_\_

If you are within the Coastal Zone, please add \$455.00 to your total.

If CAL FIRE review is required, please add \$378.00 to your total.

If Ag Commission review is required, please add \$487.00 to your total.

**\*** Recording Fees will be computed and charged at the time of recordation of the Certificates or Conditional Certificates of Compliance.

*This guide is designed to provide general information only. It is not a county ordinance or policy and has no legal effect. The general plan and other chapters of the San Luis Obispo County Code are the official regulations of the county. Those documents, rather than this guide, are the only legal basis for assessing how county regulations affect property development. Revised 7/1/08*